

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 22-CR-20114-KMW

UNITED STATES OF AMERICA

vs.

CARLOS RAMON POLIT FAGGIONI

/

DEFENDANT'S UNOPPOSED MOTION TO CONTINUE TRIAL

The Indictment in this case was filed on March 24, 2022, charging complex international financial transactions relating to alleged foreign bribery offenses occurring in Ecuador. A status conference is currently scheduled for August 16, 2023.

Due to the need for taking the testimony of several foreign defense witnesses and the vast amount of discovery ongoing in this case, a continuance of the trial to a date certain in 2024 furthers the ends of justice. If the Court grants this motion, the parties respectfully propose that the Court re-set Polit's trial to any time in January, after January 8, 2024, as the Court's calendar permits.

Polit proposes to present testimony from at least seven foreign witnesses who reside in Ecuador, none of whom can guarantee that they will appear in person in Miami for the trial (e.g., some do not have the required visas to enter the United States, others have health or work limitations on travel). Polit anticipates filing a

motion this week to (1) depose the witnesses in advance of trial, *see* Rule 15, Fed. R. Crim. P., and/or (2) present live, closed-circuit television testimony during trial of each of the foreign witnesses. Polit has presented to the government a draft of the motion with the names of the proposed foreign defense witnesses and a summary of their testimony. The parties are working toward a resolution, seeking to narrow the issues that would require the Court's attention, as well as the procedure in Ecuador for propounding testimony of defense witnesses who will voluntarily testify remotely (e.g., whether letters rogatory or the official approval of the government of Ecuador is required to depose a willing witness).

Meanwhile, the discovery in this case has been immense. The government continues to produce discovery on a rolling basis; its most recent production was served on July 26, 2023. Within the last two months, the government has supplemented its discovery production several times: June 15th (2 productions consisting of 4 GB and 231.7 GB); July 19th (2 productions consisting of 5.4 GB and 547.5 MB); and July 26th (13.4 MB).

Polit respectfully requests a trial continuance to account for the time it will take to depose the foreign witnesses and to allow Polit sufficient time to review the discovery produced by the government, including the discovery that has not yet been produced, taking in to account counsels' other professional obligations: on September 11, 2023, undersigned counsel Howard Srebnick is scheduled for trial in *State of Florida v. Koller*, Case No. 18-CF-017618 (a murder case in which

defendant has been detained for four years); on September 26, 2023, Srebnick may appear as permanent counsel for the multi-week trial in *United States v. Gosney*, Case No. 22-80022-Cannon (S.D. Fla.) (originally scheduled to begin July 10 but continued on June 27 when Judge Cannon severed Gosney from three co-defendants, *see* ECF No. 656, who did proceed to trial on July 10 as scheduled);¹ on November 6, 2023, Srebnick is scheduled to start a two-plus week trial in *United States v. Robert Jeffrey Johnson, et al.*, Case No. 21-CR-428-Ramos (S.D.N.Y.); also on November 6, 2023, Srebnick is scheduled for a civil trial in *Caballero v. FARC*, Case No. 1:18-CV-25337-Moore (S.D. Fla.) (motion for continuance pending due to scheduling conflict with the *Johnson* case).

The government has advised that it can be ready for trial by October 2023 but does not oppose a continuance until January 2024 to allow the defendant to pursue the motion to propound testimony of the foreign witnesses.

¹ Srebnick was pre-indictment counsel for Gosney. In early 2022, Srebnick appeared as temporary counsel for Gosney in the district court limited to challenging the restraint of property needed to retain counsel of choice. When that challenge failed, Srebnick's associate (Silvaggi) filed a permanent appearance as trial counsel for Gosney while Srebnick appeared as appellate counsel in the Eleventh Circuit for Gosney's interlocutory appeal. When that appellate challenge failed, Srebnick appeared in the Supreme Court as counsel of record seeking certiorari review, but that effort failed as well, when certiorari was denied on June 5, 2023. S. Ct. No. 22-10650. Gosney has since indicated that he is attempting to make alternative financial arrangements to retain Srebnick to appear as trial counsel for the September 26 trial.

Polit agrees that the period of delay resulting from the Court granting this motion to continue the trial date is excludable time under the Speedy Trial Act, 18 U.S.C. § 3161.

Respectfully submitted,

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